



Atty. Dkt. No.: 053466-0295

#16/EC

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Yasuo KAISHIHARA  
Title: INHIBITOR OF LYMPHOCYTE ACTIVATION  
Appl. No.: 09/760,723  
Filing Date: January 17, 2001  
Examiner: G. Ewoldt  
Art Unit: 1644

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**RESPONSE TO ELECTION REQUIREMENT**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

This paper is a response to the Office Communication mailed October 17, 2002, to the Notice of Non-Compliance mailed July 2, 2002, and to the Election Requirement mailed March 18, 2002. By the attached petition for an extension of time and appropriate fee, Applicant has extended the date for responding until November 2, 2002.

In a March 18, 2002 Office Action (Paper No. 9), the Examiner issued an Office Action indicating that claims 1-12 were pending, and requesting Applicant to make a species election. Applicant inadvertently responded to that Office Action without drawing the Examiner's attention to a Supplemental Preliminary Amendment, filed on February 9, 2001, that canceled claims 1-12 while adding new claims 13-24 into the application. The Examiner deemed Applicant's response to be non-compliant and maintained the election requirement in a communication (Paper No. 12) mailed July 2, 2002. At that time, Applicant realized that the election requirement was drawn to non-pending claims, and informed the Examiner of that in a response filed July 23, 2002. The Examiner has now advised Applicant that he is unaware of any amendment canceling claims 1-12, and again has requested Applicant to make an election.

Applicant regrets the confusion. To clarify the situation, Applicant has attached a copy of its February 9, 2001 Supplemental Preliminary Amendment and a copy of a postcard that the PTO stamped to evidence receipt of the amendment. By the amendment, claims 1-12 were canceled and new claims 13-24 were added into the application. Thus, only claims 13-24 are currently pending, and were pending at the time of the March 18, 2002 Election Requirement. The pending claims are drawn to methods of inhibiting lymphocyte activation, whereas the canceled claims were drawn to compositions that inhibit lymphocyte activation.

Accordingly, Applicant cannot reasonably make the election requested by the Examiner, and respectfully requests withdrawal of the election requirement.

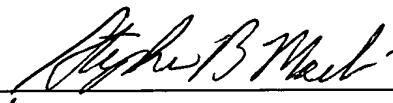

Nonetheless, should the Examiner decline to withdraw the election requirement, Applicant provisionally elects species A (an inhibitor of activation of a specific lymphocyte subset, *i.e.*, T cell or B cells) for examination. Of claims 1-12, claims 1-10 read on this species.

This response is complete under the circumstances. Should the Examiner have any further concerns or questions, he is encouraged to contact the undersigned at the telephone number provided.

Respectfully submitted,

Date Nov. 1, 2002

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